

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NOV 04 2015

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WILLIAM RICHARD BAILEY,

Defendant - Appellant.

No. 15-50472

D.C. No. 3:13-cr-03046-CAB
Southern District of California,
San Diego

ORDER

A review of the record suggests that this court may lack jurisdiction over the appeal because the district court's order denying appellant's motion to continue trial, stay proceedings and for reconsideration, entered on October 20, 2015, is not appealable as a final judgment or an order that comes within the collateral order doctrine. *See* 28 U.S.C. § 1291; *Midland Asphalt Corp. v. United States*, 489 U.S. 794, 798 (1989) (stating that finality requirement generally "prohibits appellate review until after conviction and imposition of sentence").

Within 21 days after the date of this order, appellant shall move for voluntary dismissal of the appeal or show cause why it should not be dismissed for lack of jurisdiction. If appellant elects to show cause, a response may be filed within 10 days after service of the memorandum.

Failure to comply with this order may result in the dismissal of the appeal for failure to prosecute. *See* 9th Cir. R. 42-1.

Briefing is suspended pending further order of the court.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: David J. Vignol
Deputy Clerk